

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division**

DONALD J. TRUMP,

Plaintiff,

v.

MICHAEL D. COHEN,

Defendant.

Case No. 23-cv-21377-DPG

**UNOPPOSED MOTION FOR LEAVE TO APPEAR AND ARGUE
TELEPHONICALLY**

Defendant, Michael D. Cohen, hereby moves on an unopposed basis for leave to allow the undersigned counsel, Benjamin H. Brodsky, Esq., to appear telephonically on his behalf at the upcoming August 17, 2023, discovery hearing in this matter.

1. On July 21, 2023, the Court entered an order granting Defendant's Motion for Hearing and setting a discovery hearing to occur on August 17, 2023, at the United States Courthouse, 99 N.E. Fourth Street, Tenth Floor, Courtroom Five, Miami, Florida.

2. The undersigned has acted as Defendant's primary counsel with regard to the discovery issues raised in Defendant's Motion for Hearing, while Defendant's other attorneys have taken the primary role on Defendant's Motion to Dismiss. The undersigned has been the primary point of contact for the prior discussions with Plaintiff's counsel about each category of disputed discovery, has been principally responsible for shepherding and preparing arguments on these issues for the discovery hearing, and is otherwise the attorney for Defendant best acquainted with the material facts and law on these particular issues.

3. At the time the hearing was scheduled, the undersigned believed and intended that

he would be physically present to make arguments on the Defendant's behalf and prepared accordingly. Extenuating circumstances, however, have made it unlikely that the undersigned will be able to appear in person. Three out-of-state non-party depositions have been set in a matter pending in the Central District of California on the days before and after the August 17, 2023, hearing. The first is set to take place in Massachusetts and the second and third in Maryland. The discovery cutoff in that case has been set for September 13, 2023, and the undersigned believes an extension of that deadline is very unlikely. Rescheduling these depositions will be very challenging. The presently available flight schedules make it impossible for the undersigned to be physically present at these depositions as well as the upcoming discovery hearing.

4. The undersigned counsel recognizes Court's policy that counsel appearing telephonically ordinarily may not present arguments at in-person hearings, but requests that, due to these extenuating circumstances, good cause exists to allow telephonic argument here.

5. Further, the undersigned has made diligent efforts to coordinate another date for the discovery hearing, but the parties' respective schedules make this untenable without significant delay. As Plaintiff's discovery has already been held up for months, and considering the Plaintiff's deposition is set to occur on September 6, 2023, Defendant strongly desires that the hearing go forward on August 17, 2023, so that the case may proceed expeditiously. Permitting the undersigned to argue telephonically affords Defendant the most effective representation on these issues and also serves the Court's interest in hearing the best arguments from both sides to ensure just adjudication. This is especially true where, as here, the pertinent legal and factual issues will not be fully briefed in advance of the hearing.

6. Finally, Defendant will have co-counsel in this matter, Danya Perry, physically present in the courtroom during the hearing.

7. Defendant has conferred with Plaintiff's counsel and Plaintiff stated no objection to the telephonic appearance.

WHEREFORE, Defendant respectfully requests that the Court enter an Order granting this Unopposed Motion for Leave to Appear and Argue Telephonically and permit Benjamin H. Brodsky, Esq. to appear and argue via telephone for the upcoming August 17, 2023, discovery hearing in this matter.

Respectfully submitted,

By: /s/ Benjamin H. Brodsky
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Counsel for Defendant Michael D. Cohen

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this August 9, 2023, a copy of this filing was submitted electronically via the CM/ECF system to all parties that have entered an appearance in this case and on the Court's electronic system.

By: /s/ Benjamin H. Brodsky
Benjamin H. Brodsky